1946

File No. B. Sales Tax/46

Legal Department

B **BRANCH**

Subject:-

A Bill to provide for the levy of a tax on the sale of goods in the Province of Bombay.

Bill

File No. B. Sales Tax /46.

Gen. 124 e.

281-B

C O N T E N T S.

Legal Department File No. B. Sales Tax/46.

Sr. No.	Compilation No.	Subject.	Pages.
		A Bill to provide for the Levy of a tax on the sale of goods in the Province of Bombay.	
1.	UR to F.D. No.339-Confl dt. 10th Nov, 1945.	Draft Bill.	1-2
2.	G.L.L.D.No. 74-Confl dt. 15th Feb. 1946.	Seeking Governor's assent.	3-4.
3.	L.D.R.I.No. 2060 dt. 7th March 1946.	Governor's Generals assent.	5-6
4.	G.R.L.D.No. 1949 dt 8th March 1946.	Publication of the Act.	7-26.

Office of the R.L.A.

The draft Bill, as amended, is in order. The amendments are self-explanatory. It may however be pointed out that the amendment made in clause 23 (corresponding to lause 20A of the F.D. draft Bill), namely, the reference therein to sub-section (2) of section 21, has been made in view of the provisions of sub-clause (3) of clause 21. A clean typed copy of the Bill as amended is sent herewith.

2. The Statement at page 63 is in order.

3. The subject-matter of the Bill falls under entries Nos. 1,2,37, 33, and 48 in List II and entries Nos.2,4,5,8, and 15 in List III in 7th Schedule to the Government of India Act, 1935. As Explanation 2 to sub-clause (g) of clause 2 of the Bill is repugnant to the provisions of the Indian Sale of Goods, Act, 1930, and clause 28 is repugnant to the provisions of the Indian Evidence Act, 1872, the Bill will have to be reserved for the consideration of the Governor-General with reference to paragraph (2) of the Proclamation and section 107 (2) of the Government of India Act, 1935.

Sd/

Remembrancer of Legal Affairs.

U.R. to F.D.No.339-Confl dated the 10th November1945.

VGP. 24-7-56.

IMMEDIATE. - 3 - Rc- 74-Confl.
Legal Department,
Bombay Castle, 15th February 1946.

From

P.N.Moos Esquire, Bar-at-law I.C.S.
Secretary to the Government of Bombay;

To,

The Secretary to the Governor of Bombay.

Subject:- The Bombay Sales Tax Bill, 1946.

Sir,

With reference to your memorandum No.201,127) dated the 5th December 1945, addressed to the Finance Department, on th above subject, I am directed to send herewith a copy of the Bombay Sales Tax Bill, 1946 prepared by His Excellancy the Governor under paragraph (2) of the Proclamation dated the 4t November 1939 issued by him under section 93 of the Governmer of India Act, 1935, and to request you to forward the same to the Secretary to the Governor General (Public) for obtaining the assent of His Excellancy the Governor General.

2. The subject-matter of the Bill falls under entries Nos. 1,2,37,38, and 48 in List II and entries Nos.2,4,5,8, and 15 in List III in 7th Schedule to the Government of Indi Act 1935. As Explanation 2 to sub-clause (g) of clause 2 of the Bill is repugnant to the provisions of the Indian Sale of Goods Act, 1930, and clause 28 is repugnant to the provisions of the Indian Evidence Act, 1872 the Bill will have to be reserved for the consideration of the Governor General with reference to paragraph (2) of the Proclamation and section 107(2) of the Government of India Act, 1935.

3. I also forward herewith six copies of the Bill out of which five copies are for transmission to the Secretary tothe Governor General (Public)..

Yours obedient servant,

Secretary to the Government of Bombay
Legal Department.

Through The Joint Secretary to the Governmentof Bombay,
Finance Department.

VGP. 24-7-56.

IMMEDIATE. - 5 - No. G.S.601,
Office of the Governor's Secretary
Government House,

From

G. G. Drowe, Esquire, OBE.ICS.
Secretary to the Governor of Bombay,

To

The Secretary to Government,
Legal Department, Bombay.-
Bombay 7th March 1946.

Subject:- The Bombay Sales Tax Bill 1946.

Sir,

With reference to your letter No. 74-Confl., dated 13th February 1946, on the above subject, I am directed to forward herewith the copy of the Bombay Sales Tax will Bill 1946, with His Excellency the Governor-General's assent signified thereon.

Your obedient servant,

Secretary to the Governor of Bombay.

VGP. 24-7-56.

ACTS.

Publication of the Bombay Sales Ta
Act, 1946.

GOVERNMENT OF BOMBAY.
Legal Department,
Resolution No. 1949
Bombay Castle, 8th March 1946.

Letter to the Secretary to the Governor No.74-Confidential, dated the 13th February 1946.

Memorandum from the Secretary to the Governor, No. G.S. 637, dated the 4th March 1946 informing that the Governor-General assented to the Bombay Sales Tax Bill, 1946 on the 28th February 1946.

RESOLUTION:- The law should be published as Bombay Act. No. V. of 1946 in the Bombay Government Gazette, dated the 8th March 1946.

2. The Act should be translated into Marathi, Gujarati Kannada and Hindustani (in Urdu and Devnagari Script) and the translation should be published in the Bombay Government Gazette.

3. A copy of the Act should be forwarded to the Finance Department.

By order of the Governor of Bombay.

N.S.MONANI.

Additional Deputy Secretary to Government.

To

The Manager,
Government Central Press, Bombay (with a request that 15 Gazette copies of the Act may be forwarded to the Legal Department),
The Finance Department,
The Oriental Translator to Government) With a copy
The Secretary to the Bombay Legislatuve) of the Act.
Council,
The Secretary to the Bombay Legislative
Assembly,

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* With five copies.

VGP. 24-7-56.

The following Act made by the Governor of Bombay in exercise of the powers vested in him by virtue of the Proclamation dated the 4th November 1939 issued by him under section 93 of the Government of India Act, 1935 having been assented to by the Governor General on the 28th February 1946 is hereby published for general information.

aP.H.MODI,
Secretary to the Government of Bombay
Legal Department.

Bombay Act V of 1946.

(First published, after having received the assent of the Governor General in the "Bombay Government Gazette" on the * March 1946.

* Press: Please insert here the date of the publication of the Act in the "Bombay Government Gazette."

VGP. 24-7-56.

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159 209

GOVERNOR'S BILL No. V OF 1946.

A Bill to provide for the levy of a tax on the sale of goods in the Province of Bombay.

WHEREAS it is expedient to provide for the levy of a tax on the sale of goods in the Province of Bombay ; Preamble.

AND WHEREAS the Governor of Bombay has assumed to himself under the Proclamation dated the 4th November 1939, issued by him under section 93 of the Government of India Act, 1935, all powers vested by or under the said Act in the Provincial Legislature

26, Geo. 5, Ch. 2.

NOW, THEREFORE, in exercise of the said powers, the Governor of Bombay is pleased to make the following Act :—

1. (*1*) This Act may be called the Bombay Sales Tax Act, 1946. Short title, extent and commencement.

(*2*) It shall extend to the whole of the Province of Bombay.

(*3*) This section shall come into force at once and the rest of this Act shall come into force on such date as the Provincial Gover cation in *Official Gazette*, appoint.

Definitions.

2. In this Act unless there is anything repugnant in the subject or context,—

(*a*) " Commissioner " means the Commissioner of Sales Tax appointed under sub-section (*1*) of section 3 ;

(*b*) " contract " means any agreement for carrying out for cash or deferred payment or other valuable consideration, the construction, fitting out, improvement or repair of any building, road, bridge or other immovable property ;

(*c*) " dealer " means any person who carries on the business of selling or supplying goods in the Province of Bombay, whether for commission, remuneration or otherwise and includes any society, club or association which sells or supplies goods to its members ;

Explanation.—The manager or agent of a dealer who resides outside the Province of Bombay and carries on the business of selling or supplying goods in the Province of Bombay shall, in respect of such business, be deemed to be a dealer for the purposes of this Act ;

(*d*) " goods " means all kinds of movable property other than actionable claims, stocks, shares and securities, and includes all materials, articles and commodities, whether or not to be used in the construction, fitting out, improvement or repair of immovable property ;

(*e*) " prescribed " means prescribed by rules made under this Act ;

(*f*) " registered dealer " means a dealer registered under this Act ;

(*g*) " sale " with all its grammatical variations and cognate expressions means any transfer of property in goods for cash or deferred payment or other valuable consideration, including a transfer of property in goods involved in the execution of a contract but does not include a mortgage, hypothecation, charge or pledge ;

Explanation 1.—A transfer of goods on hire purchase or other instalment system of payment shall, notwithstanding the fact that the seller retains a title to any goods as security for payment of the price, be deemed to be a sale ;

Explanation 2.—Notwithstanding anything to the contrary in the Indian Sale of Goods Act, 1930, the sale of any goods which are actually in the Province of Bombay at the time when the contract for sale (as defined in that Act) is made in respect thereof, shall, wherever the said contract of sale is made, be deemed for the purposes of this Act to have taken place in the Province of Bombay ; III of 1930.

(*h*) " sale price " means the amount payable to a dealer as valuable consideration for—

(i) the sale or supply of any goods, less any sum allowed as cash discount according to trade practice, but including any sum charged for anything done by the dealer in respect of the goods at

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the time of or before delivery thereof, other than the cost of freight or delivery or the cost of installation when such cost is separately charged ; or

(ii) the carrying out of any contract, less such portion as may be prescribed, of such amount, representing the usual proportion of the cost of labour to the cost of materials used in carrying out such contract ;

(*i*) "Tribunal" means the Tribunal constituted under section 4 ;

(*j*) "turnover" means the aggregate of the amounts of sale-prices received and receivable by a dealer in respect of sale or supply of goods or carrying out of any contract, effected or made during a given period ; and

(*k*) "year" means the financial year.

Taxing authorities.

3. (*1*) For carrying out the purposes of this Act, the Provincial Government may appoint any person to be a Commissioner of Sales Tax, and such other persons to assist him as the Provincial Government thinks fit.

(*2*) Persons appointed under sub-section (*1*) shall exercise such powers as may be conferred and perform such duties as may be imposed on them by or under this Act.

(*3*) All persons appointed under sub-section (*1*) shall be deemed to be public servants within the meaning of section 21 of the Indian Penal Code.

XLV of 1860.

Tribunal.

4. (*1*) The Provincial Government shall constitute a Tribunal to exercise the functions conferred on the Tribunal by or under this Act.

(*2*) The Tribunal shall consist of not more than three members possessing such qualifications as may be prescribed.

(*3*) Any vacancy in the membership of the Tribunal shall be filled up by the Provincial Government.

(*4*) Subject to the previous sanction of the Provincial Government, the Tribunal shall frame regulations consistent with the provisions of this Act and the rules made thereunder, for regulating its procedure and the disposal of its business.

(*5*) The regulations made under sub-section (*4*) shall be published in the *Official Gazette*.

Incidence of taxation.

5. (*1*) Subject to the provisions of sections 6 and 7 and with effect from such date as the Provincial Government may, by notification in the *Official Gazette* appoint, being not earlier than thirty days after the date of the said notification, every dealer whose gross turnover during the year immediately preceding the commencement of this Act exceeded Rs. 10,000 shall be liable to pay tax under this Act on sales effected after the date so notified :

Provided that the tax shall not be payable on sales involved in the execution of a contract which is shown to the satisfaction of the Commissioner to have been entered into by the dealer concerned on or before the date so notified.

(2) Every dealer to whom sub-section (1) does not apply shall be liable to pay tax under this Act with effect from the date of expiry of three months after the commencement of the year immediately following that during which his gross turnover hereafter first exceeds Rs. 10,000.

(3) Every dealer who has become liable to pay tax under this Act shall continue to be so liable until the expiry of three consecutive years, during each of which his gross turnover has failed to exceed Rs. 10,000 and such further period after the date of such expiry as may be prescribed and on the expiry of this latter period his liability to pay the tax shall cease.

(4) Every dealer whose liability to pay tax has ceased under the provisions of sub-section (3) shall again be liable to pay tax under this Act with effect from the date of expiry of three months after the commencement of the year immediately following that during which his gross turnover again exceeds Rs. 10,000.

Levy and Rate of Tax.

6. (1) The tax payable by a dealer under this Act shall be a tax levied on his taxable turnover at the rate of half anna in the rupee.

(2) In this Act the expression "taxable turnover" means that part of a dealer's gross turnover during any period of his liability to pay the tax which remains after deducting therefrom—

(a) his turnover during that period on—

(i) the sale of any goods declared, from time to time, as tax-free under section 7;

(ii) sales to a registered dealer of goods specified in the purchasing dealer's certificate of registration as being intended for re-sale by him, or for use by him in the manufacture of any goods for sale or in the execution of any contract, and on sales to a registered dealer of containers and other materials for the packing of such goods;

(iii) sales of goods which are shown to the satisfaction of the Commissioner to have been despatched by, or on behalf of, the dealer to an address outside the Province of Bombay; and

(iv) such other sales as may be prescribed;

(b) three *per centum* of the balance remaining after making the deductions allowed by sub-clauses (i) to (iv) of clause (a).

Tax-free goods.

7. (1) No tax shall be payable under this Act on the sale of goods specified in the first column of the Schedule, subject to the conditions and exceptions, if any, set out in the corresponding entry in the second column thereof.

(2) The Provincial Government, after giving by notification in the *Official Gazette* not less than one month's notice of its intention so to do, may by like notification add to the Schedule and thereupon the Schedule shall be deemed to be amended accordingly.

8. (*1*) No dealer shall, while being liable to pay tax under section 5 of this Act, carry on business as a dealer unless he has been registered and possesses a registration certificate Registration of dealers.

Provided that for the purposes of this sub-section the gross turnover shall be calculated without making the deductions referred to in sub-section (*2*) of section 6.

(*2*) Every dealer required by sub-section (*1*), to be registered shall make application in that behalf in the prescribed manner to the prescribed authority.

(*3*) If the said authority is satisfied that an application for registration is in order, it shall, in accordance with such rules as may be prescribed, register the applicant and grant him a certificate of registration in the prescribed form which shall specify the class or classes of goods in which at the time of the grant of the said certificate the dealer carries on business and such other particulars as may be prescribed.

(*4*) The prescribed authority may, from time to time amend any certificate of registration after considering the information furnished under section 17 or otherwise received.

(*5*) When any dealer has been convicted or has paid composition money under section 26, in respect of any contravention of sub-section (*1*) of this section, the prescribed authority shall register such dealer and grant him a certificate of registration, and such registration shall take effect as if it had been made under sub-section (*3*) of this section on the dealer's application.

(*6*) When—

(*a*) any business in respect of which a certificate has been granted under this section has been discontinued or transferred.

or

(*b*) the gross turnover of any such business has during each of three consecutive years failed to exceed Rs. 10,000,

the prescribed authority shall cancel the registration with effect from the prescribed date.

9. The Provincial Government shall, as soon as may be after the commencement of this Act, publish in the prescribed manner a list of the names and addresses of registered dealers together with a description of the goods in accordance with their certificates of registration and thereafter shall, in like manner, from time to time publish— Publication of the list of registered dealers.

(*a*) such particulars of any dealer who is subsequently registered or whose certificate of registration is amended or whose registration is cancelled, as soon as may be after such registration, amendment or cancellation; and

(*b*) a consolidated list embodying the modifications in the first list published under this section.

Returns.

10. (*1*) Every such dealer as may be required so to do by the Commissioner by notice served in the prescribed manner and every registered dealer shall furnish such returns by such dates and to such authority as may be prescribed.

(*2*) If any dealer having furnished a return under sub-section (*1*) discovers any omission or wrong statement therein, he may furnish a revised return, at any time before assessment is made in the prescribed manner.

Assessment of Tax.

11. (*1*) If the Commissioner is satisfied without requiring the presence of a registered dealer or the production by him of any evidence that the returns furnished in respect of any period are correct and complete, he shall assess the amount of tax due from the dealer on the basis of such returns.

(*2*) (*a*) If the Commissioner is not satisfied without requiring the presence of a registered dealer who furnished the returns or production of evidence that the returns furnished in respect of any period are correct and complete, he shall serve on such dealer a notice in the prescribed manner requiring him, on a date and at a place specified therein either to attend in person or to produce or to cause to be produced any evidence on which such dealer may rely in support of such returns.

(*b*) On the day specified in the notice or as soon afterwards as may be, the Commissioner shall, after hearing such evidence as the dealer may produce, and such other evidence as the Commissioner may require on specified points, assess the amount of tax due from the dealer.

(*3*) If a registered dealer, having furnished returns in respect of a period, fails to comply with all the terms of a notice issued under sub-section (*2*), the Commissioner shall assess, to the best of his judgment, the amount of tax due from the dealer.

(*4*) If a registered dealer does not furnish returns in respect of any period by the prescribed date, the Commissioner shall, after giving the dealer a reasonable opportunity of being heard, assess to the best of his judgment, the amount of tax, if any, due from the dealer.

(*5*) If upon information which has come into his possession, the Commissioner is satisfied that any dealer has been liable to pay tax under this Act in respect of any period and has nevertheless wilfully failed to apply for registration, the Commissioner shall, after giving the dealer a reasonable opportunity of being heard, assess, to the best of his judgment, the amount of tax, if any, due from the dealer in respect of such period and all subsequent periods and the Commissioner

may direct that the dealer shall pay, by way of penalty, in addition to the amount so assessed, a sum not exceeding one and a half times that amount.

(6) Any assessment made under this section shal be vithout prejudice to any prosecution instituted for n offence under this Act.

Payment and recovery of tax.

12. (1) The tax payable under this Act shall be paid in ıe manner hereinafter provided at such intervals as may be rescribed.

(2) Before any registered dealer furnishes the returns equired by sub-section (1) of section 10, he shall, in the prescribed manner, pay into a Government treasury the full amount of tax due from him under this Act according to such returns and shall furnish, along with the returns, a receipt from such treasury showing the payment of such amount.

(3) Before any registered dealer submits a revised return in accordance with sub-section (2) of section 10 which shows a greater amount of tax to be due than was payable in accordance with the original return, he shall pay into a Government treasury the extra amount of tax and shall furnish along with the revised return a receipt from such treasury showing payment of the extra amount.

(4) The amount of tax—

(a) due where the returns are furnished without receipt showing full payment thereof, or

(b) assessed under sub-sections (1), (2), (3) and (4) of section 11 less the sum, if any, already paid by the dealer in respect of the said period, or

(c) assessed under sub-section (5) of section 11 together with the penalty directed to be paid under that sub-section

shall be paid by the dealer into a Government treasury by such date as may be specified in a notice issued by the Commissioner for this purpose and the date to be so specified shall be not less than thirty days from the date of service of such notice :

Provided that the Commissioner may, in respect of any particular dealer and for reasons to be recorded in writing, extend the date of such payment or allow such dealer to pay the tax due and the penalty (if any) by instalments.

(5) Any amount of tax together with the penalty, if any, which remains unpaid after the date specified in the notice issued under sub-section (4) shall be recoverable as an arrear of land revenue.

Refunds.

13. The Commissioner shall, in the prescribed manner, refund to a registered dealer applying in this behalf any amount of tax paid by such dealer in excess of the amount due from him under this Act, either by cash payment or, at the option of the dealer, by deduction of such excess from the amount of tax due in respect of any other period :

Provided that no claim to refund of any tax paid under this Act shall be allowed unless it is made within twenty-four months from the date on which the order of assessment was passed or within twelve months of the final order passed on appeal, revision, or reference in respect of the order of assessment, whichever period is later.

Accounts.

14. Every registered dealer and every other dealer on whom a notice has been served to furnish returns under sub-section (*1*) of section 10 shall keep a true account of the value of goods bought and sold by him, and if the Commissioner considers that such account is not sufficiently clear and intelligible to enable him to make a proper check of the returns referred to in that sub-section, he may require such dealer by notice in writing to keep such accounts (including records of sales) as he may, subject to anything that may be prescribed in that behalf, in writing direct.

Production and inspection of accounts and documents, and search of premises.

15. (*1*) The Commissioner may, subject to such conditions as may be prescribed, require any dealer to produce before him any account or documents, or to furnish any information, relating to the stocks of goods of, or purchases, sales and deliveries of goods by, the dealer as may be necessary for the purposes of this Act.

(*2*) All accounts, registers and documents relating to the stocks of goods of, or purchases, sales and deliveries of goods by, any dealer and all goods kept in any place of business or warehouse of any dealer shall at all reasonable times be open to inspection by the Commissioner.

(*3*) If the Commissioner has reason to suspect that any dealer is attempting to evade the payment of any tax due from him under this Act, he may, for reasons to be recorded in writing seize such accounts, registers or documents of the dealer as may be necessary, and shall grant a receipt for the same, and shall retain the same only for so long as may be necessary for examination thereof or for a prosecution.

(*4*) For the purposes of sub-section (*2*) or sub-section (*3*) the Commissioner may enter and search any place of business or warehouse of any dealer.

Delegation of Commissioner's functions.

16. Subject to such conditions and restrictions as the Provincial Government may, by general or special order, impose, the Commissioner may, by order in writing, delegate any of his powers and duties under this Act to any persons appointed under section 3 to assist him.

Information to be furnished regarding changes of business.

17. If any dealer to whom the provisions of sub-section (*1*) of section 10 apply—

(*a*) sells or otherwise disposes of his business or any part of his business or effects, or comes to know of any other change in the ownership of the business, or

(*b*) discontinues his business or changes his place of business or opens a new place of business, or

(*c*) changes the name or nature of his business or effects any change in the classes of goods in which he carries on business,

he shall, within the prescribed time inform the prescribed authority accordingly; and if any such dealer dies, his legal representative shall, in like manner, inform the said authority.

Tax payable by transferee of business.

18. When the ownership of the business of a registered dealer is entirely transferred, any tax payable in respect of such business and remaining unpaid at the time of the transfer shall be payable by the transferee as if he were the registered dealer; and the transferee shall within thirty days of the transfer apply for registration under section 8.

Power of Commissioner to determine disputes.

19. If any question arises (otherwise than in a proceeding before a Court) whether or not, for the purposes of this Act,—

(*a*) any person or firm or any branch or department of any firm is a dealer, or

(*b*) any transaction is a sale or contract, or

(*c*) any particular dealer is liable to registration, or

(*d*) any particular goods purchased by a registered dealer are covered by his certificate of registration, or

(*e*) any tax is payable in respect of any particular sale or contract, or

(*f*) any goods or classes of goods should be specified in the certificate of registration of any dealer under sub-section (*3*) of section 8,

the Commissioner shall determine such question:

Provided that the Commissioner may direct that any such determination shall not affect the liability of any dealer under this Act in respect of any contract entered into or sale effected prior to the date of such determination.

Bar to certain proceedings.

20. Save as is provided in section 23, no assessment made and no order passed under this Act or the rules made thereunder by the Commissioner or any person appointed under section 3 to assist him shall be called into question in any Civil Court, and save as is provided in section 21, no appeal or application for revision shall lie against any such assessment or order.

Appeal.

21. (*1*) Within sixty days from the making of an order of assessment either with or without penalty or the passing of any other order under this Act, any dealer may in the prescribed manner, appeal to the prescribed authority against such assessment or other order:

Provided that no appeal against an order of assessment, with or without penalty, shall be entertained by the said authority unless it is accompanied by satisfactory proof of the payment of the tax, with penalty, if any, in respect of which the appeal has been preferred.

(*2*) Subject to such rules of procedure as may be prescribed the said authority may pass such orders on the appeal as such authority may think fit.

(*3*) Every order passed in appeal under this section shall, subject to the provisions of sections 22 and 23, be final.

Revision

22. (*1*) Subject to such rules as may be prescribed and for reasons to be recorded in writing, the Commissioner may, upon application or of his own motion, revise any order passed under this Act or the rules thereunder by a person appointed under section 3 to assist him, and, subject as aforesaid the Tribunal may, in like manner, revise any order passed by the Commissioner:

Provided that before rejecting any application for the revision of any such order the Commissioner or the Tribunal as the case may be, shall record reasons for such rejection.

(*2*) Before any order is passed under this section which is likely to affect any person adversely, such person shall be given a reasonable opportunity of being heard.

Statement of case to High Court.

23. (*1*) Within sixty days from the passing by the Tribunal of any order under sub-section (*2*) of section 21 or sub-section (*1*) of section 22 affecting any liability of any dealer to pay tax under this Act, such dealer or the Commissioner may, by application in writing accompanied where the application is made by a dealer by a fee of one hundred rupees, require the Tribunal to refer to the High Court any question of law arising out of such orders, and where the Tribunal agrees it shall draw up a statement of the case and refer it to the High Court.

(2) If, for reasons to be recorded in writing the Tribunal refuses to make such reference, the applicant may, within thirty days of such refusal, either—

(a) withdraw his application (and if the applicant who does so is a dealer the fee paid by him shall be refunded), or

(b) apply to the High Court against such refusal.

(3) If upon the receipt of an application under clause (b) of sub-section (2), the High Court is not satisfied that such refusal was justified, it may require the Tribunal to state a case and refer it to the High Court and on receipt of such requisition the Tribunal shall state and refer the case accordingly.

(4) If the High Court is not satisfied that the statements in a case referred under this section are sufficient to enable it to determine the question raised thereby, it may refer the case back to the Tribunal, to make such additions thereto or alterations therein as the High Court may direct in that behalf.

(5) The High Court upon the hearing of any such case shall decide the question of law raised thereby, and shall deliver its judgment thereon containing the grounds on which such decision is founded, and shall send to the Tribunal a copy of such judgment under the seal of the Court and the signature of the Registrar, and the Tribunal shall dispose of the case accordingly.

(6) Where a reference is made to the High Court under this section, the costs [including the disposal of the fee referred to in sub-section (1)] shall be in the discretion of the Court.

(7) The payment of the amount, if any, of tax due in accordance with the order of the Tribunal in respect of which an application has been made under sub-section (1) shall not be stayed pending the disposal of such application or any reference made in consequence thereof, but if such amount is reduced as the result of such reference, the excess tax paid shall be refunded in accordance with the provisions of section 13.

Offences and penalties.

24. (1) Whoever—

(a) carries on business as a dealer in contravention of sub-section (1) of section 8; or

(b) fails, without sufficient cause, to submit any return as required by section 10 or knowingly submits a false return; or

(*c*) being a registered dealer, falsely represents when purchasing any class of goods, that goods of such class are covered by his certificate of registration; or

(*d*) not being a registered dealer, falsely represents when purchasing goods that he is a registered dealer; or

(*e*) fails, when directed so to do under section 14, to keep any accounts or records of sales in accordance with the direction; or

(*f*) refuses to comply with any requirement made of him under sub-section (*1*) of section 15; or

(*g*) knowingly produces incorrect accounts, registers or documents, or knowingly furnishes incorrect information; or

(*h*) obstructs any officer making an inspection a search or a seizure under section 15; or

(*i*) neglects to furnish any information required by section 17,

shall, in addition to the recovery of any tax that may be due from him, be punishable with simple imprisonment which may extend to six months or with fine not exceeding one thousand rupees or with both; and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the period of the continuance of the offence.

(*2*) No Court shall take cognizance of any offence under this Act, or under the rules made thereunder, except with the previous sanction of the Commissioner, and no Court inferior to that of a Magistrate of the Second Class shall try any such offence.

(*3*) Notwithstanding anything contained in the Code of Criminal Procedure, 1898, all offences punishable under this Act shall be cognizable and bailable. V of 1898.

Investigation of offences.

25. (*1*) Subject to such conditions as may be prescribed, the Commissioner may authorise any persons appointed under section 3 to assist him, to investigate all offences punishable under this Act.

(*2*) Every person so authorised shall, in the conduct of such investigation, exercise the powers conferred by the Code of Criminal Procedure, 1898, upon an officer in charge of a police station for the investigation of a cognizable offence. V of 1898.

Compounding of offences.

26. (*1*) The Commissioner may, either before or after the institution of proceedings under section 24, accept from any person charged with an offence under sub-section (*1*) of section 24 or under any rules made under this Act, by way of composition of the offence, a sum not exceeding one thousand rupees or where the offence charged is under clause (*a*) or clause (*b*) of that sub-section, not exceeding double the amount of tax which would have been payable by the dealer had he complied with the provisions of this Act, whichever is greater.

(*2*) On payment of such sum as may be determined by the Commissioner under sub-section (*1*) no further proceedings shall be taken against the accused person in respect of the same offence.

Indemnity

27. No suit, prosecution or other legal proceedings shall lie against any servant of the Crown for anything which is in good faith done or intended to be done under this Act or the rules made thereunder.

Disclosure of information by a public servant.

28. (*1*) All particulars contained in any statement made, return furnished or accounts or documents produced in accordance with this Act, or in any record of evidence given in the course of any proceedings under this Act other than proceedings before a Criminal Court shall, save as provided in sub-section (*3*), be treated as confidential, and notwithstanding anything contained in the Indian Evidence Act, 1872, no Court shall, save as aforesaid, be entitled to require any servant of the Crown to produce before it any such statement, return, account, document or record or any part thereof, or to give evidence before it in respect thereof.

I of 1872.

(*2*) If, save as provided in sub-section (*3*), any servant of the Crown discloses any of the particulars referred to in sub-section (*1*), he shall be punishable with imprisonment which may extend to six months or with fine or with both.

(*3*) Nothing in this section shall apply to the disclosure of any of the particulars referred to in sub-section (*1*) for the purposes of a prosecution under the Indian Penal Code, in respect of any statement, return, accounts, document or evidence, or for the purposes of a prosecution under this Act.

XV of 1860.

Power to make rules.

29. (*1*) The Provincial Government may, subject to the condition of previous publication, make rules for carrying out the purposes of this Act.

(*2*) In particular and without prejudice to the generality of the foregoing power, such rules may prescribe—

(*a*) the portion referred to in sub-clause (ii) of clause (*h*) of section 2;

(*b*) the qualifications to be possessed by a member of the Tribunal ;

(*c*) the further period after the date of expiry of three consecutive years referred to in sub-section (*3*) of section 5 ;

(*d*) the other sales, turnover in respect of which may be deducted from a dealer's gross turnover in computing his taxable turnover as defined in section 6 ;

(*e*) the manner in which and the authority to which applications for registration shall be made under section 8 ;

(*f*) the procedure for, and other matters incidental to, the registration of dealers and the granting of certificates of registration, and the form of such certificates under section 8 and the date from which cancellation of registration under sub-section (*6*) of that section shall take effect ;

(*g*) the manner in which the lists and particulars referred to in section 9 shall be published ;

(*h*) the returns to be furnished under section 10 and the dates by which, and the authority to which, such returns shall be furnished ;

(*i*) the procedure to be followed for assessment under section 11 ;

(*j*) the intervals at which, and the manner in which, the tax shall be payable under section 12 ;

(*k*) the manner in which refunds under section 13 shall be made ;

(*l*) the accounts and forms thereof required by the Commissioner to be kept under section 14 ;

(*m*) the conditions under which the production of accounts or documents or the furnishing of information may be required under sub-section (*1*) of section 15 ;

(*n*) the authority to which, and the time within which, information shall be furnished under section 17 ;

(*o*) the manner in which, and the authority to which, appeals against any orders, under the Act, may be preferred under section 21 ;

(*p*) the procedure for, and other matters (including fees) incidental to, the disposal of appeals and applications for revision under sections 21 and 22 ;

(*q*) the manner in which, and the time within which, applications shall be made, information furnished and notices served, under this Act;

(*r*) any other matter which is required to be or may be prescribed.

(*3*) In making any rule the Provincial Government may direct that a breach thereof shall be punishable with fine not exceeding one thousand rupees, and when the offence is a continuing one, with a daily fine not exceeding fifty rupees during the continuance of the offence.

30. On the date on which the whole of this Act comes into force, the Bombay Sales Tax Act, 1939, shall be repealed. Repeal of Bom. V of 1939.

SCHEDULE.

[*See* section 7.]

Serial No.	Description of goods.	Conditions and exceptions subject to which exemption has been allowed.
1	All cereals and pulses including all forms of rice.	
2	Flour including *atta, maida, suji* and bran.	
3	Bread.	
4	Meat.	
5	Fish.	
6	Fresh Eggs.	
7	Live stock including poultry.	
8	Vegetables green or dried other than medical preparations.	
9	Fruits—fresh and dried.	
10	Cooked food eaten at a hotel, restaurant, refreshment room, eating house or other place where cooked food is served.	Except when the cost of a single meal exceeds annas eight.
11	*Gur*, sugar and molasses.	
12	Salt.	
13	Pepper, tamarind and chillies.	
14	Fresh Milk, condensed milk, separated milk, milk powder and infant foods.	
15	Cheap cloth of such variety and of such rate as may be specified by the Provincial Government by notification in the *Official Gazette*.	
16	Kerosene.	
17	Cattle-feeds including fodder, cotton-seed and other concentrates.	
18	Fertilizers.	
19	Quinine.	
20	Coal gas	When sold by a Gas Supply Company for consumption— (*a*) by Government or any Local Authority, or (*b*) in respect of any industrial undertaking (other than in residential or office premises).
21	Tobacco in any form whether manufactured or not.	
22	Matches.	
23	Bullion and Specie.	
24	Goods on which duty is or may be levied under the Bombay Abkari Act, 1878, or the Opium Act, 1878.	
25	Electrical energy.	
26	Motor spirit, meaning any liquid or admixture of liquids which is capable of providing reasonably efficient motive power for any form of motor vehicle and which has a flashing point below 76 F.	

STATEMENT

The object of the Bill is to levy a tax on the sale of goods or, more accurately, on the turnover of such sale. The immediate occasion for the tax is the need to augment Provincial revenue in order to meet the expenditure, recurring and non-recurring, on Post-war Reconstruction. A sales tax, in one form or another, already exists in Madras, the Punjab, Bengal and Bihar. The Government of Bombay considers that it may suitably be introduced in this Province.

The tax will be levied on the turnover of sales of goods to actual consumers, but only such turnover will be taxed as exceeds Rs. 10,000 a year. All dealers whose turnover exceeds Rs. 10,000 a year will be registered and the tax realised from them. The rate of levy proposed is half an anna in the rupee. It is proposed to exempt certain essential articles such as foodgrains and cheap cloth, as also articles which are already subject to a separate Central or Provincial tax such as matches, sugar, liquor, opium, and electricity. It is also proposed that sales of goods to addressees living outside the Province should be excluded from the operation of the tax.

By order of the Governor of Bombay,

B. VENKATAPPIAH,
Joint Secretary.

H 110—3 con

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